

REMARKS

In this amendment, the Specification (without the claims and the abstract) has been amended to include the headings set forth on Page 2 of the Office Action. Claim 1 has been amended to overcome the objection in paragraph 1 of the Office Action. Claims 1, 5, 8, 11, 15 and 18 have been amended to more definitely claim the subject matter which Applicant regards as his invention to overcome the objection in paragraphs 2 and 3 of the Office Action. Claim 1 has been amended and Claim 23 has been added. Claims 2-4, 6-7, 9-10, 12-14 and claims 16-20 are being resubmitted in their present form without amendment.

I. Rejection of Claims 1-3, 5-13 and 15-20 under 35 USC 103(a)

The Examiner rejected Claims 1-3, 5-13 and 15-20 under 35 USC 103(a) as being unpatentable over Maciulewicz (U.S. Patent 5,751,572) in view of Paul (U.S. Patent 6,687,817). Applicant respectfully disagrees. Specifically, the Examiner is respectfully requested to reconsider the rejection in view of the following remarks.

Maciulewicz teaches relates to communications that occur between a master controller and its respective zone controllers within an HVAC communication network. In particular, Maciulewicz relates to the manner in which communication is established between a master controller and its respective zone controllers within an HVAC communication network that may include a number of different master controllers and respective zone controllers. Paul relates generally to the field of computer networks. More particularly, Paul relates to configuring a network attached device through the network.

The combination of Maciulewicz and Paul does not render claim 1 obvious because it fails to teach or otherwise suggest each and every limitation of amended independent claims 1, 11 and new claim 23. These grounds apply equally to the rejected dependent claims, all of which, by dependency, have the limitations described in the independent claims. It is well

settled in patent law that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art without reference to the disclosure of this application. (MPEP Section 2142) In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria. In particular the cited reference Paul does not remedy the deficiencies of the reference Maciulewicz.

Maciulewicz does not disclose a front-end device being adapted to respond to a configuration data request by broadcasting a configuration data response containing the required configuration data to all the controller devices. Although the Examiner contends that these claim limitations are disclosed in column 1, lines 51-59 of Maciulewicz, the cited passage merely teaches an HVAC communication system with the capability of allowing a master controller in the system to immediately broadcast control information to its respective zone controllers at any time without having to periodically address each zone controller. According to Maciulewicz, this is accomplished by allowing a master controller to respond quickly to any messages that may be provided to it from any device within the HVAC communication system.

The “control information” of Maciulewicz is defined in column 4 lines 32-39 thereof as zone damper position, zone temperature setting and the current temperature of the zone. However, the “control information” of Maciulewicz does not pertain to any type of device configuration. Thus, the “control information” of Maciulewicz is not the same as the configuration data claimed in the independent claims of the present invention. Maciulewicz fails to disclose any type of configuration data in general and particularly configuration data being requested by the controller devices.

Even the Examiner acknowledges on page 4 that "Maciulewicz does not expressly disclose each controller device being adapted to transmit a configuration data request if not sufficiently configured to perform its appointed role." The Examiner then states that he relies on Paul at column 3, lines 29-34 and column 3, lines 59-61 which he contends discloses these claim limitations.

Applicant respectfully disagrees. Specifically, Paul does not teach each controller device being adapted to transmit a configuration data request if it is not configured to perform its appointed role. In Paul, column 3, lines 29-34, before a new device (which is added to the network) configures the network settings, it first multicasts a configuration request on the network. Likewise, Paul at column 3, lines 59-61 teaches a configuration computer to generate configuration data and send it to the new device via multicast. However, a review of Paul at column 4 lines 42-45, column 5 lines 62-65 and column 6 lines 41-43, teaches that the configuration data pertains to network settings which allow the new device to function within the network such that it configures the new device to fit with the network specifications.

In contrast, as disclosed in [0067] of the present application, Applicant's configuration data as claimed, pertains to the specific role (in terms of controller type and/or functionality) the controller device has. In other words, Paul relates to configuring the device to fit with the network specifications. In contrast, the present invention relates to configuring the device to perform an appointed role, where the role pertains to a controller type and/or functionality. Thus, Paul fails to disclose or suggest that each controller device is adapted to transmit a configuration data request if it is not sufficiently configured to perform its appointed role. Insofar as claims 2, 3, 5 -10, 12-13, 15-20 depend on the independent claims and it is respectfully submitted that

independent claims 1, 11 and 23 are patentably distinct over the prior art cited by the Examiner, claims 2, 3, 5 -10, 12-13, 15-20 are also patentably distinct over the prior art.

II. Rejection of Claims 4 and 14 under 35 USC 103(a)

In Paragraph 6 of the Office Action, the Examiner rejected Claims 4 and 14 as being unpatentable over Maciulewicz (U.S. Patent 5,751,572) in view of Paul (U.S. Patent 6,687,817) as applied to claims 1 and 11 and further in view of Donahue et. al (U.S. Patent 7,313,606). Applicant respectfully disagrees. Specifically, the Examiner is respectfully requested to reconsider the rejection in view of the following remarks.

Applicant incorporates herein his remarks set forth above with respect to amended Claims 1 and 11 upon which claims 4 and 14 respectfully depend. Donahue relates generally to broadband telecommunications, and particularly to a system and method for automatic configuration of a Bi-directional Internet Protocol (IP) communication device, such as a DSL gateway or modem. Insofar as independent claims 1, 11 and 23 are patentably distinct over the Maciulewicz in view of Paul, claims 4 and 14 are also patentably distinct over Maciulewicz in view of Paul and further in view of Donahue as neither Maciulewicz or Paul. teach or suggest making the combinations claimed in claims 4 and 14 and the reasonable expectation of success must both be found in the prior art. (MPEP Section 2142) In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

CONCLUSION

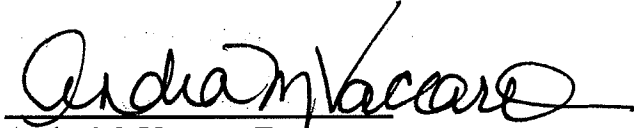
For all of the reasons set forth above, it is respectfully submitted that amended claims 1, 5, 8, 11, 15 and 18, new claim 23 and previously presented claims 2-4, 6-7, 9-10, 12-14 and claims 16-20 are patentably distinct over the prior art of record and are in condition for allowance. Thus, it is respectfully requested that the application be passed to issue forthwith.

Accordingly, and such action is earnestly solicited at the earliest possible date.

The Commissioner is hereby authorized to charge any amounts due or credit any overpayments in connection with this matter to Deposit Account No. 10-0440.

Respectfully submitted,

Dated: October 3, 2008



Andra M. Vaccaro Esq.

Reg. No. 28,604

Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of Stars, Seventh Floor
Los Angeles, CA 90067
(310) 203-8080